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10 Attorneys for Defendants
CLASSMATES ONLINE, INC.; CLASSMATES
11 MEDIA CORPORATION; and UNITED ONLINE,
12 INC.

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15 ANTHONY MICHAELS; individually
16 and on behalf of all others similarly
situated,

17 Plaintiffs,

18 v.

19 CLASSMATES ONLINE, INC.;
20 CLASSMATES MEDIA
CORPORATION; UNITED ONLINE,
21 INC.; and DOES 1 through 50,
inclusive,

22 Defendants.

CASE NO.

CV08-08041 DSF VBKx
[LASC Case No. BC401048]

**NOTICE OF REMOVAL
PURSUANT TO 28 U.S.C. §§ 1332,
1441, 1446, & 1453**

**[FILED CONCURRENTLY WITH
DECLARATION OF CHRIS
BURKE]**

CONFIRMED COPY

2008 DEC -5 PM 3:14
CLERK OF COURT
CENTRAL DISTRICT OF CALIF.

FILED

1 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR
2 THE CENTRAL DISTRICT OF CALIFORNIA AND PLAINTIFF THROUGH
3 HIS COUNSEL OF RECORD:

4 PLEASE TAKE NOTICE that defendants Classmates Online, Inc.,
5 Classmates Media Corporation, and United Online, Inc. (collectively,
6 "Defendants") hereby remove this action from the Superior Court of the State of
7 California for the County of Los Angeles to the United States District Court for the
8 Central District of California, pursuant to 28 U.S.C. §§ 1332, 1441, 1446,
9 and 1453.

10 PLEASE TAKE FURTHER NOTICE that pursuant to 28 U.S.C. § 1446(d),
11 copies of this Notice of Removal are being served upon counsel for named plaintiff
12 Anthony Michaels, individually and on behalf of all others similarly situated
13 ("Plaintiff"), and filed with the Clerk of the Los Angeles Superior Court as an
14 exhibit to the Notice to State Court of Removal to Federal Court. A true and
15 correct copy of the Notice of Removal being filed in state court is attached hereto
16 (without exhibits) as Exhibit A.

17 **I. JURISDICTION**

18 1. This Court has jurisdiction over this action pursuant to 28 U.S.C.
19 § 1332(d), as amended by the Class Action Fairness Act of 2005, Pub. L. No. 109-
20 2, 119 Stat. 4 (2005) ("CAFA"). As required by CAFA, and as more fully set out
21 below, this is a putative class action in which (a) there are 100 or more members in
22 Plaintiff's proposed class; (b) at least a member of the proposed class has
23 citizenship in a state other than that of a defendant; and (c) the alleged claims of the
24 proposed class members exceed the sum or value of \$5 million in the aggregate.
25 Thus, removal is proper under 28 U.S.C. §§ 1332, 1441, 1446, and 1453.

II. BACKGROUND

2. On or about October 30, 2008, Plaintiff filed a "Class Action Complaint" ("Complaint") entitled *Anthony Michaels, et al. v. Classmates Online, Inc., et al.*, Case No. BC401048, in the Superior Court of the State of California, County of Los Angeles. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the Summons and Complaint served on Defendants and all pleadings and orders filed in the California Superior Court in the action is attached to this Notice as Exhibit B.

3. A notice of removal "shall be filed within thirty days after the receipt by the defendant" of the complaint. 28 U.S.C. § 1446(b). Defendants were served with the Summons and Complaint in the Los Angeles Superior Court action on November 7, 2008. *See* Proof of Service, attached to this Notice as Exhibit C. This Notice of Removal is therefore timely pursuant to 28 U.S.C. § 1446(b).

4. The Superior Court for the County of Los Angeles is located within the Central District of California. 28 U.S.C. § 84(c)(2). The action is therefore being properly removed to this Court pursuant to 28 U.S.C. § 1441(a).

III. REMOVAL IS PROPER PURSUANT TO CAFA

5. This action is a putative class action brought by an individual purporting to state claims against Defendants for intentional misrepresentation, negligent misrepresentation, fraudulent concealment, and violations of California Business and Professions Code sections 17200 and 17500.

6. This action meets the applicable definition of a class action under CAFA, which is "any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure." 28 U.S.C. § 1332(d)(1)(B). The Complaint states that "Plaintiff brings this class action pursuant to the provisions of Code of Civil Procedure section 382" and "pursuant to the California Unfair Competition Law (Cal. Business and Professions Code sections 17200, *et seq.*)." (Compl. ¶¶ 3, 13.)

1 7. The action is brought on behalf of a putative class consisting of “all
2 persons located within the United States who purchased a subscription to
3 www.classmates.com in response to an email, correspondence, advertisement,
4 message, text message, and/or other communication initiated by the Defendants
5 indicating to the class that individuals and/or past acquaintances are trying to
6 contact them.” (Compl. ¶ 14.) Plaintiff alleges that “the total number of class
7 members is at least in the hundreds of thousands.” (Compl. ¶ 15.)

8 8. Again, the Complaint seeks relief for alleged intentional
9 misrepresentation, negligent misrepresentation, negligence, fraudulent concealment,
10 and violations of the Business & Professions Code. Based on these claims, Plaintiff
11 seeks to recover, among other things, the money that purported class members paid
12 when they purchased a subscription to www.classmates.com. (Compl. ¶¶ 14, 28,
13 30, 70.) Plaintiff also seeks an injunction prohibiting Defendants from engaging in
14 the alleged unlawful conduct and requiring Defendants to pay restitution, general
15 and special damages, punitive damages, and attorneys’ fees. (Compl., 18:23-25;
16 19:13.)

17 9. As set forth below, this action satisfies each of the requirements of
18 section 1332(d), vesting this Court with original jurisdiction under CAFA.

19 **A. The Proposed Class Consists of 100 or More Members**

20 10. CAFA applies when the number of members of all proposed classes in
21 the aggregate is 100 or greater. *See* 28 U.S.C. § 1332(d)(5)(B).

22 11. Plaintiff alleges that “the total number of class members is *at least in*
23 *the hundreds of thousands...across the United States.*” (Compl. ¶ 15 (emphasis
24 added).) Accordingly, Plaintiff’s proposed class exceeds 100 members and far
25 exceeds the minimum class member requirement under CAFA.

1 **B. Minimal Diversity Exists**

2 12. The requisite diversity of citizenship under CAFA is satisfied when
3 “any member of a class of plaintiffs is a citizen of a State different from any
4 defendant.” 28 U.S.C. § 1332(d)(2)(A) (emphasis added).

5 13. Named plaintiff Anthony Michaels alleges that he is a citizen of the
6 State of California. (Compl. ¶ 5.) On the other hand, Plaintiff alleges that
7 defendant Classmates Online, Inc. is a Washington corporation and has its principal
8 place of business in Washington, thereby making it a citizen of the State of
9 Washington. (Compl. ¶ 6.) By sole virtue of the fact that named plaintiff Michaels
10 is alleged to be a citizen of a different state than defendant Classmates Online, Inc.,
11 CAFA’s diversity of citizenship requirement is satisfied. In addition, the putative
12 class necessarily includes individuals who are citizens of a State other than
13 Washington, California and Delaware. (See Compl. ¶ 14 (“all persons located in
14 the United States”).) The only three defendants in this case are alleged to be
15 citizens of Washington, California and Delaware. (See Compl. ¶ 6-8 (Pursuant to
16 28 U.S.C. 1332(c)(1) Classmates Online, Inc. is a Washington citizen and
17 Classmates Media Corporation and United Online, Inc. have dual citizenship in
18 California and Delaware¹.) Thus, the diversity of citizenship requirement under
19 CAFA is clearly satisfied.

20 **C. The Amount in Controversy Requirement is Satisfied**

21 14. Under CAFA, the claims of the individual class members are
22 aggregated to determine whether the amount in controversy exceeds the required
23 “sum or value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C.
24 §§ 1332(d)(2), (d)(6). Without conceding the merits of the Complaint’s allegations
25 or causes of action, the Complaint plainly alleges total class claims in an amount
26 that exceeds \$5 million.

27
28 ¹ There is no limit on local defendants. Removal is permitted in such cases without regard to
whether any defendant is a local citizen. See 28 U.S.C. § 1453(b).

1 15. The Complaint seeks, among other things, to recover the money that
 2 putative class members paid when they purchased a subscription to
 3 www.classmates.com allegedly in response to misleading solicitations from
 4 Classmates. (Compl. ¶¶ 14, 28, 30, 70.) The weighted average price per new
 5 subscription purchased between November 2004 and November 2008 is **\$26.43**.²
 6 (Declaration of Chris Burke (“Burke Decl.”) ¶ 3.)

7 16. Based on this conservatively calculated average claim per class
 8 member, and the minimum number of class members alleged in the Complaint,
 9 which is “at least” two hundred thousand claimants (*see* Compl. ¶ 15 “the total
 10 number of class members is at least in the hundreds of thousands”), it is clear that
 11 the lowest possible alleged amount in controversy is **\$5.286 million** (\$26.43 per
 12 claimant x 200,000 (the minimum number of claimants alleged in the Complaint)).
 13 This conservatively calculated amount clearly exceeds the jurisdictional minimum
 14 required under CAFA.

15 17. Moreover, the Complaint also seeks an injunction enjoining
 16 Defendants from engaging in alleged wrongful marketing and sales practices. The
 17 value of the injunction may be calculated similarly to the value of the restitution
 18 sought by Plaintiff because the injunction, in essence, would require Defendants to
 19 reimburse class members the fees paid for their subscriptions. *See Berry v.*
 20 *American Express Pub. Corp.*, 381 F.Supp.2d 1118, 1124 (C.D. Cal. 2005) (the
 21 amount in controversy may be based on the costs to defendants of providing
 22 whatever relief is sought). Therefore, the value of the injunction sought also
 23 exceeds the jurisdictional minimum.

24
 25 ² The Complaint does not plead any limit on the class period, other than the presumptive statute of limitations period,
 26 which is four years for Plaintiff’s Unfair Competition claim. *See* Cal. Bus. & Prof. Code § 17208. While Defendants
 27 have used that four-year period in calculating the *pled* amount sought through the Complaint, Defendants do not
 28 agree that the governing limitations period is four years. However, Defendants understand that they must work from
 the allegations in the Complaint in filing this removal, and so Defendants are constrained to use the four-year period
 (based on the face of the Complaint) in calculating the average subscription price per putative class member, *i.e.*,
 alleged damages.


18. The Complaint also seeks other remedies, including general and special damages, punitive damages, and attorneys' fees. All of these purported damages should be considered when valuing Plaintiff's total claim. *See Frederico v. Home Depot*, 507 F.3d 188, 195-196 (3rd Cir. 2007) (removal may be upheld where the plaintiff's own compensatory and punitive damages claims, along with attorneys fees, exceed \$5 million). However, calculating these additional damages is not necessary in this case because, conservatively, Plaintiff is clearly seeking in excess of the \$5 million jurisdictional minimum required by CAFA in actual damages alone. When the additional relief sought by Plaintiff is factored in (*i.e.*, special damages, punitive damages and attorneys' fees), it cannot reasonably be disputed that Plaintiff seeks well in excess of \$5 million in this case.

WHEREFORE, Defendants hereby remove this action to this Court, which has jurisdiction pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453. Defendants hereby give notice that this action, which was pending in Los Angeles County Superior Court, has been removed to this Court.³

Dated: December 5, 2008

DLA PIPER LLP (US)

By


 JEFFREY A. ROSENFELD
 RUSSELL B. WUEHLER
 ANA TAGVORYAN
 Attorneys for Defendants
 CLASSMATES ONLINE, INC.;
 CLASSMATES MEDIA CORPORATION;
 UNITED ONLINE, INC.

³ Defendants reserve the right to supplement or amend this Notice of Removal.

EXHIBIT A

1 JEFFREY A. ROSENFELD (SBN 136896)
2 ANA TAGVORYAN (SBN 246536)
3 DLA PIPER LLP (US)
4 1999 Avenue of the Stars, Fourth Floor
5 Los Angeles, CA 90067-6022
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10 701 Fifth Ave., Suite 7000
11 Seattle, WA 98104
12 Tel: 206.839.4800
13 Fax: 206.839.4801

14 Attorneys for Defendants
15 CLASSMATES ONLINE, INC.; CLASSMATES
16 MEDIA CORPORATION; and UNITED ONLINE,
17 INC.

18
19 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
20
21 FOR THE COUNTY OF LOS ANGELES – CENTRAL CIVIL WEST
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29 ANTHONY MICHAELS; individually and
30 on behalf of all others similarly situated,

31 Plaintiffs,

32 v.

33 CLASSMATES ONLINE, INC.;
34 CLASSMATES MEDIA
35 CORPORATION; UNITED ONLINE,
36 INC.; and DOES 1 through 50, inclusive,

37 Defendants.

CASE NO. BC 401408

[Hon. William F. Highberger, Dept. 307]

**NOTICE TO STATE COURT OF
REMOVAL TO FEDERAL COURT**

Complaint Filed: October 30, 2008

1 **TO THE CLERK OF THE COURT:**

2 PLEASE TAKE NOTICE THAT a Notice of Removal of this action was filed in the
3 United States District Court for the Central District of California on December 5, 2008, under
4 United States District Court Case No. _____.

5 A copy of said Notice of Removal and the Declaration of Chris Burke in support of the
6 Notice of Removal are attached to this Notice, and are served and filed herewith as Exhibit A.¹

7 PLEASE TAKE FURTHER NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and
8 1446, the filing of the Notice of Removal in the United States District Court for the Central
9 District of California, together with the filing of this Notice with this Court, effects the removal of
10 this action and this Court may proceed no further unless and until the case is remanded.

11
12 Dated: December 5, 2008

DLA PIPER LLP (US)

13
14 By 

15 JEFFREY A. ROSENFELD

16 ANA TAGVORYAN

17 RUSSELL B. WUEHLER

18 Attorneys for Defendants

19 CLASSMATES ONLINE, INC.; CLASSMATES
20 MEDIA CORPORATION; UNITED ONLINE,
21 INC.

22
23
24
25
26
27 ¹ In an effort to not burden the Court with duplicative and voluminous documents, the exhibits attached to the Notice
28 of Removal have been omitted. The exhibits consist of a copy of this Notice and a copy of the Summons and
Complaint, pleadings and orders in this action, which are already contained in this Court's file.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is: 1999 Avenue of the Stars, Fourth Floor, Los Angeles, California 90067.

On December 5, 2008, I served the foregoing document(s) described as **NOTICE TO STATE COURT OF REMOVAL TO FEDERAL COURT** interested parties in this action by placing ☒ the original ☒ true copy(ies) thereof enclosed in sealed envelopes as follows:

Brian S. Kabateck, Esq.
Richard L. Kellner, Esq.
KABATECK BROWN KELLNER LLP
644 South Figueroa Street
Los Angeles, CA 90017
Telephone: (213) 217-5000
Facsimile: (213) 217-5010

*Attorney for Plaintiff
Anthony Michaels*

☐ **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.


☐ **(BY FACSIMILE)** I delivered such document by facsimile to the following persons at the facsimile telephone numbers listed above.

☒ **(BY HAND DELIVERY)** I delivered the within documents to Corporate Legal Services for delivery to the above address(es) with instructions that such envelope be delivered personally on December 5, 2008 to the above named individuals.

☐ **(BY OVERNIGHT MAIL)** I am readily familiar with the firm's practice of collection and processing correspondence for mailing with Fed Ex. Under that practice it would be deposited with Fed Ex on that same day thereon fully prepaid at Los Angeles, California in the ordinary course of business. The envelope was sealed and placed for collection and mailing on that date following ordinary business practices.

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 5, 2008, at Los Angeles, California.



Robbyn James

EXHIBIT B

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

Classmates Online, Inc; Classmates Media Corporation; United Online, Inc.; a California Corporation; and DOES 1 through 50, inclusive;

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Anthony Michaels, individually and on behalf of all others similarly situated,

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LAS CORTES)**FILED**

LOS ANGELES SUPERIOR COURT

OCT 30 2008

JOHN A. CLARKE, CLERK
[Signature]
BY MARY GARCIA, DEPUTY

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

Los Angeles Superior Court
111 N. Hill Street
Los Angeles, CA 90012

CASE NUMBER:
(Número del Caso):

BC401048

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Brian S. Kabateck
644 South Figueroa Street, Los Angeles, CA 90017 Tel.: 213 217-5000

DATE:

(Fecha)

Clerk, by

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010))

NOTICE TO THE PERSON SERVED: You are served

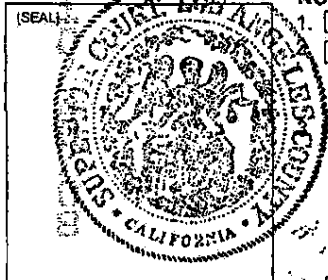
- ☐ as an individual defendant.
☐ as the person sued under the fictitious name of (specify):

☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)

☐ other (specify):

4. ☐ by personal delivery on (date):



FILED
LOS ANGELES SUPERIOR COURT

OCT 30 2008

JOHN A. CLARKE, CLERK
BY MARY GARCIA, DEPUTY

BRIAN S. KABATECK, SBN 152054
(bsk@kbbklawyers.com)
RICHARD L. KELLNER, SBN 171416
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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES CENTRAL DISTRICT

ANTHONY MICHAELS; individually and
on behalf of all others similarly situated,

Plaintiff,

vs.

CLASSMATES ONLINE, INC.;
CLASSMATES MEDIA CORPORATION;
UNITED ONLINE, INC.; and DOES 1
through 50, inclusive;

Defendants.

CASE NO. BC401048

CLASS ACTION COMPLAINT FOR:

1. INTENTIONAL MISREPRESENTATION
2. NEGLIGENT MISREPRESENTATION
3. NEGLIGENCE
4. FRAUDULENT CONCEALMENT
5. BUSINESS & PROFESSIONS CODE & 17200 et seq.
6. BUSINESS & PROFESSIONS CODE & 17500 et seq.

JURY TRIAL DEMANDED

CIT/CASE: BC401048 LEA/DEFK
RECEIPT #: CCM78057009
DATE PAID: 10/30/08 03:36:04 PM
PAYMENT: \$870.00
RECEIVED: 0310
CHECK: 870.00
CASH:
CHANGE:
CARD:

CLASS ACTION COMPLAINT

EXHIBIT
PAGE

B
II

1 Plaintiff Anthony Michaels, individually and on behalf of himself and all others
 2 similarly situated, as described below pursuant to California Code of Civil Procedure,
 3 section 382, alleges upon information and belief, except for paragraphs that pertain to
 4 plaintiff or plaintiff's attorneys, as follows:

5 6 INTRODUCTION

7 1. Classmates Online, Inc. owns and operates the website
 8 www.classmates.com, which is a subscription-based website that "reunites classmates,
 9 friends and family, teachers, co-workers, and military personnel." Its database contains
 10 millions of records of people from schools, places of work and the military.
 11 Classmates.com boasts to have up to 50 million registered users, who register with the
 12 website at no cost, and 2.7 million subscribers who pay varying subscription fees to access
 13 various tools and content.

14 2. This class action is brought by Plaintiff Anthony Michaels individually, and
 15 on behalf of all others similarly situated, who were led to believe that past acquaintances
 16 from school, work and/or military service were trying to contact them through the
 17 www.classmates.com website. In fact, Classmates Online, Inc. actively participates and
 18 perpetuates the impression that certain individuals of interest to Plaintiff and the Class are
 19 trying to contact them through the www.classmates.com website. This is nothing more
 20 than a ruse to get Plaintiff and the Class to pay for a subscription to www.classmates.com.
 21 This action seeks damages from Classmates Online, Inc. and all related entities for their
 22 wrongful conduct.

23 24 JURISDICTION AND VENUE

25 3. Plaintiff brings this class action pursuant to the California Unfair
 26 Competition Law (Cal. Business and Professions Code sections 17200, et seq.) and other
 27 provisions of California statutory and nationwide common law, as identified herein, to
 28

1 recover damages, to seek equitable relief, and to seek restitution and other relief available at
 2 law or in equity on behalf of Plaintiff, the members of the class as defined below, and on
 3 behalf of all people of the State of California. Plaintiff and the proposed class assert no
 4 claims under federal law.

5 4. Venue as to each Defendant is proper in this judicial district pursuant to
 6 California Code of Civil Procedure sections 395(a) and 395.5, and other provisions of law.
 7 Each defendant either maintains an office, transacts business, advertises or offers products
 8 for sale, has an agent or is found in the County of Los Angeles. Plaintiff's causes of action
 9 arose in part within the County of Los Angeles and each defendant is subject to the
 10 jurisdiction of this Court. The unfair, fraudulent, unlawful and otherwise wrongful acts
 11 described herein have had a direct effect on consumers within the State of California,
 12 including the County of Los Angeles, and the trade and commerce described below has
 13 been carried on within the State of California, including the County of Los Angeles.

14 THE PARTIES

15
 16 5. Plaintiff Anthony Michaels ("Plaintiff") is a resident of San Diego County
 17 California and has previously purchased a subscription to www.classmates.com on or
 18 around December 24, 2007.

19 6. Defendant Classmates Online, Inc. is a privately held corporation organized
 20 pursuant to the laws of Washington, with a principal address of 2001 Lind Ave SW, Ste
 21 500, Renton, Washington, 98055. On information and belief, Classmates Online, Inc. owns
 22 and operates the website www.classmates.com and is the wholly owned subsidiary of
 23 Classmates Media Corp.

24 7. Defendant Classmates Media Corporation is a privately held corporation
 25 organized pursuant to the laws of Delaware, with a principal address of 21301 Burbank
 26 Blvd., Woodland Hills, California, 91367. On information and belief, Classmates Media
 27 Corporation is a wholly owned subsidiary of United Online, Inc.

1 8. Defendant United Online, Inc. is a publicly traded corporation organized
2 pursuant to the laws of Delaware, with a principal address of 21301 Burbank Blvd.,
3 Woodland Hills, California, 91367. On information and belief, United Online, Inc. wholly
4 owns Classmates Media Corporation, who in turn, wholly owns Classmates Online, Inc.
5 On information and belief, United Online, Inc. is an Internet Service Provider and through
6 its subsidiary, Classmates Media Corporation, offers social networking services under the
7 Classmates brand name.

8 9. At all times herein mentioned, Classmates Online, Inc. and Classmates
9 Media Corporation were acting as the agents, ostensible agents, servants, partners, aider
10 and abettor, co-conspirator, joint venturer and/or employees of United Online, Inc., and in
11 doing the acts and following the course of conduct set forth herein, Classmates Online, Inc.
12 and Classmates Media Corporation were acting within the course and scope of such agency
13 or employment, and Defendant United Online, Inc. approved, ratified, permitted, condoned
14 and/or affirmed the marketing and sales practices, associated with the website
15 www.classmates.com.

16 10. There exists, and at all times herein mentioned, there existed, a unity of
17 interest in ownership between Defendant Classmates Online, Inc. and Defendants
18 Classmates Media Corporation and United Online, Inc., such that any individuality and
19 separateness between Defendants has ceased and Defendants Classmates Media
20 Corporation and United Online, Inc., are the alter-egos of Classmates Online, Inc. and
21 exerted control over Classmates Online, Inc. Adherence to the fiction of the separate
22 existence of Defendant Classmates Online, Inc. as an entity distinct from Defendants
23 Classmates Media Corporation and United Online will permit an abuse of the corporate
24 privilege and would sanction fraud and would promote injustice. Defendant Classmates
25 Online, Inc. and Defendants Classmates Media Corporation and United Online, Inc. are
26 alter egos and comprise a single enterprise. Classmates Online, Inc. is a wholly owned
27 subsidiary of Classmates Media Corporation, which in turn, is a wholly owned subsidiary
28

1 of United Online, Inc.

2 11. Plaintiff and the Class do not know the true names or capacities of the
3 persons or entities sued herein as DOES 1 to 50, inclusive, and therefore sue such
4 defendants by such fictitious names. Plaintiff and the Class are informed and believe and
5 thereon allege that each of the DOE defendants is in some manner legally responsible for
6 the damages suffered by Plaintiff and the Class as alleged herein. Plaintiff and the Class
7 will amend this complaint to set forth the true names and capacities of these defendants
8 when they have been ascertained, along with appropriate charging allegations, as may be
9 necessary.

10 12. There is a complete unity of interests and ownership among defendants and
11 their subsidiaries, such that there is no corporate separateness and independence among
12 said corporations and each of said corporations is merely the agent and instrumentality of
13 each other. By reason of the above facts, recognition of the independent identity of the
14 defendants would operate a fraud upon plaintiffs such that each of said defendants should
15 be regarded as alter ego of each other and held responsible for its obligations and liabilities

16
17 **CLASS ACTION ALLEGATIONS**

18 13. In addition to prosecuting this action as a private attorney general on behalf
19 of the general public pursuant to Business & Professions Code section 17204,
20 Plaintiff brings this class action pursuant to the provisions of Code of Civil Procedure
21 section 382.

22 14. Plaintiff brings this action on behalf of the following class:

23 *A class consisting of all persons located within the United States who purchased a*
24 *subscription to www.classmates.com in response to an email, correspondence,*
25 *advertisement, message, text message, and/or other communication initiated by the*
26 *Defendants indicating to the class that individuals and/or past acquaintances are*
27 *trying to contact them.*

1 Excluded from the class are governmental entities, defendants, defendants' affiliates,
2 parents, subsidiaries, employees, officers, directors, and co-conspirators. Also excluded is
3 any judge, justice or judicial officer presiding over this matter and the members of their
4 immediate families and judicial staff.

5 15. Plaintiff does not know the exact number of class members, because such
6 information is in the exclusive control of defendants. Due to the nature of the trade and
7 commerce involved, however, Plaintiff believes that the total number of class members is at
8 least in the hundreds of thousands and members of the class are so numerous and
9 geographically dispersed across the United States and even within the State of California
10 that joinder of all class members is impracticable.

11 16. Defendants Classmates Online, Inc., Classmates Media Corporation and
12 United Online, Inc. have acted with respect to the Class in a manner generally applicable to
13 each class member. There is a well-defined community of interest in the questions of law
14 and fact involved in the action, which affect all class members. The questions of law or
15 fact common to the Class predominate over any questions affecting only individual
16 members, including, but not limited to, the following:

17 a. Whether Defendants Classmates Online, Inc., Classmates Media
18 Corporation and United Online, Inc. misrepresented to Plaintiff and the Class that
19 individuals and past acquaintances were trying to make contact with them through
20 the website www.classmates.com;

21 b. Whether or not Plaintiff and the members of the Class have been
22 damaged by the wrongs complained of herein, and if so, the measure of those
23 damages and the nature and extent of other relief that should be afforded.

24 17. The claims of Plaintiff are typical of the claims of the other members of the
25 Class in that all members of the Class have been harmed in substantially the same way by
26 the actions of Defendants Classmates Online, Inc., Classmates Media Corporation and
27

1 United Online, Inc.

2 18. Plaintiff is committed to prosecuting this action and has retained competent
3 counsel experienced in litigation of this nature. Plaintiff is an adequate representative of
4 the Class.

5 19. A class action is superior to other available methods for the fair and efficient
6 adjudication of the controversy. The prosecution of separate actions by individual members
7 of the Class would create the risk of inconsistent or varying adjudications with respect to
8 individual members of the Class which would establish incompatible standards of conduct
9 for defendants, or adjudications with respect to individual members of the Class which
10 would, as a practical matter, be dispositive of the interests of the other members not parties
11 to the adjudications or substantially impair or impede their ability to protect their interests.

12 20. In view of the complexity of the issues and the expense that an individual
13 plaintiff would incur if he or she attempted to obtain relief from large, multinational
14 corporations such as Classmates Online, Inc., Classmates Media Corporation and United
15 Online, Inc., the separate claims of individual class members are monetarily insufficient to
16 support separate actions. Because of the size of the individual class members' claims, few,
17 if any, class members could afford to seek legal redress for the wrongs complained of in
18 this Complaint.

19 21. The proposed class fulfills the certification criteria of Code of Civil
20 Procedure section 382.

21 **FACTUAL BACKGROUND**

22 22. As alleged more fully below, Classmates Online, Inc., Classmates Media
23 Corporation and United Online, Inc. misrepresented material information in the marketing,
24 advertising, promoting and sale of subscriptions to the www.classmates.com website.

25 23. At all times relevant hereto, Classmates Online, Inc., Classmates Media
26 Corporation and United Online, Inc. owned and operated www.classmates.com, a website
27

1 in which visitors to the website complete a free profile registration in order to view the
2 profiles of other registrants. The advertised purpose of the free registration is to allow the
3 user to view the profile of alumni from their respective school.

4 24. In order to register for free and view other user profiles, the visitor must
5 provide the following: Class/Graduation Year, Year of Birth, Title, Name, Email Address,
6 and Zip/Postal Code. According to the website free members are limited to the functions of
7 "find friends and post a profile."

8 25. As a paid subscriber, referred to as the "Gold Membership," members are
9 able to "See where friends live now on Classmates Maps," "Find out who's visited and
10 signed your profile," Chat on your school's message board," "Send Classmates Email to
11 friends from your school." The Gold Membership has varying price points depending on
12 the desired duration of membership.

13 26. Upon information and belief, without the Gold Membership, free members
14 cannot find out who visited and/or signed their profile, and also, send and receive messages
15 from "classmates" through the website.

16 27. Plaintiff Anthony Michaels registered for a free membership to
17 www.classmates.com on or around December 24, 2007. During the course of this free
18 membership, Plaintiff was sent emails, messages and/or communications generated,
19 composed, created, initiated, and/or authored by Defendants Classmates Online, Inc.,
20 Classmates Media Corporation and United Online, Inc., misrepresenting to Plaintiff that
21 former classmates of his were viewing his profile, leaving messages, and/or trying to
22 contact him through www.classmates.com.

23 28. As a result of these emails, messages and/or communications from
24 Defendants Classmates Online, Inc., Classmates Media Corporation and United Online,
25 Inc., and in reliance on these emails, messages and/or communications, Plaintiff registered
26 for the Gold Membership by paying for said membership and registering as a paid
27 subscriber.

28

29. Upon logging into his Gold Membership profile in order to view the classmate contacts, as represented by Defendants Classmates Online, Inc., Classmates Media Corporation and United Online, Inc., Plaintiff discovered that in fact, no former classmate of his had tried to contact him or view his profile. Of those www.classmates.com users who were characterized, designated and/or identified by Defendants Classmates Online, Inc., Classmates Media Corporation and United Online, Inc., as members who viewed Plaintiff's profile, none were former classmates of Plaintiff or persons familiar with or known to Plaintiff for that matter.

30. Plaintiff and the Class have suffered financial losses as a result of Defendants Classmates Online, Inc., Classmates Media Corporation and United Online, Inc.'s misrepresentations about who was trying to contact them through www.classmates.com.

31. Plaintiff and the Class, upon information and belief, allege that the Directors, Officers, Advisory Board Members, Senior Managers, any other managerial employees and/or agents (Does 1-50) of Defendants Classmates Online, Inc., Classmates Media Corporation and United Online, Inc., had knowledge of the misrepresentations but failed to disclose the misrepresentations to Plaintiff and the Class.

FIRST CAUSE OF ACTION

INTENTIONAL MISREPRESENTATION

(vs. Classmates Online, Inc., Classmates Media Corporation, and United Online, Inc.)

32. Plaintiff and the Class reallege the preceding paragraphs as if fully set forth herein and, to the extent necessary, pleads this cause of action in the alternative.

33. Plaintiff and the Class claim that Defendants Classmates Online, Inc., Classmates Media Corporation and United Online, Inc., authorized, permitted condoned, controlled and/or made false representations as to the individuals, members, and/or users

1 who were purportedly making attempts to contact Plaintiff and the Class through
2 www.classmates.com. As more specifically set forth above, these representations appear as
3 inbox messages, email messages, profile visits, guestbook signatures and other
4 informational materials that the Defendants Classmates Online, Inc., Classmates Media
5 Corporation and United Online, Inc. prepared, composed, generated, initiated, and
6 participated in the preparation and/or approved and endorsed, and in various other media.

7 34. The Defendants Classmates Online, Inc., Classmates Media Corporation and
8 United Online, Inc., knew that the representations as to the individuals, members, and/or
9 users who were purportedly making attempts to contact Plaintiff and the Class were false
10 when they were made and made them intentionally. The Defendants Classmates Online,
11 Inc., Classmates Media Corporation and United Online, Inc. also knew that information it
12 misrepresented to Plaintiff and the Class was material.

13 35. The Defendants Classmates Online, Inc., Classmates Media Corporation and
14 United Online, Inc. intended that Plaintiff and the Class rely on these representations and
15 thereby induced Plaintiff and the Class to purchase the Gold Membership.

16 36. Plaintiff and the Class reasonably relied on the representations made by the
17 Defendants Classmates Online, Inc., Classmates Media Corporation and United Online,
18 Inc. when they purchased their Gold Membership.

19 37. Plaintiff and the Class were harmed when they purchased the Gold
20 Membership.

21 38. Plaintiff's reliance on the representations made by Defendants Classmates
22 Online, Inc., Classmates Media Corporation and United Online, Inc. was a substantial
23 factor in causing the harm.

24 39. Plaintiff's claim that the Defendants Classmates Online, Inc., Classmates
25 Media Corporation and United Online, Inc. aided and abetted one another in making
26 misrepresentations as to the individuals, members, and/or users who were purportedly
27

28

1 making attempts to contact Plaintiff and the Class through www.classmates.com. These
 2 Defendants knew that the individuals, members, and/or users who were making attempts to
 3 contact Plaintiff and the Class were not former classmates of Plaintiff and the Class when
 4 they approved, authorized, permitted, condoned, controlled, endorsed and/or made false
 5 representations regarding the attempted contacts. All of these Defendants knew the
 6 misrepresentations were material and substantially assisted in the misrepresentations.

7 40. Classmates Online, Inc., Classmates Media Corporation and United Online,
 8 Inc. were motivated by their financial interests in continuously and systematically
 9 misrepresenting to Plaintiff and the Class, the true identity of the individuals, members,
 10 and/or users who were making attempts to contact Plaintiff and the Class, such as to
 11 constitute oppression, fraud, or malice under *California Civil Code*, section 3294, entitling
 12 Plaintiff and the Class to punitive damages in an amount appropriate to punish or set an
 13 example of Classmates Online, Inc., Classmates Media Corporation and United Online, Inc.

14 SECOND CAUSE OF ACTION

15 NEGLIGENT MISREPRESENTATION

16
 17 (vs. Classmates Online, Inc., Classmates Media Corporation, and United
 18 Online, Inc.)

19 41. Plaintiffs realleges the preceding paragraphs as if fully set forth herein and,
 20 to the extent necessary, pleads this cause of action in the alternative.

21 42. Plaintiffs claim that they were harmed because the Defendants Classmates
 22 Online, Inc., Classmates Media Corporation and United Online, Inc. negligently and
 23 carelessly misrepresented the individuals, members, and/or users who were purportedly
 24 making attempts to contact Plaintiff and the Class through www.classmates.com. As more
 25 specifically set forth above, these representations appear as inbox messages, email
 26 messages, profile visits, guestbook signatures and other informational materials that the
 27 Defendants Classmates Online, Inc., Classmates Media Corporation and United Online,
 28

1 Inc. prepared, composed, generated, initiated, and participated in the preparation and/or
2 approved and endorsed, and in various other media.

3 43. Defendants Classmates Online, Inc., Classmates Media Corporation and
4 United Online, Inc. negligently and carelessly made, authorized, permitted, controlled, and
5 condoned representations that were not true and had no reasonable grounds for believing
6 the representations were true when they made them, and negligently and carelessly induced
7 the Plaintiff and the Class into purchasing a Gold Membership.

8 44. Plaintiffs reasonably relied on the representations made by the Defendants
9 Classmates Online, Inc., Classmates Media Corporation and United Online, Inc. when they
10 purchased their Gold Memberships.

11 45. Plaintiffs' reliance on the representations made by the Defendants
12 Classmates Online, Inc., Classmates Media Corporation and United Online, Inc. was a
13 substantial factor in causing their harm.

14 46. Plaintiff's claims that the Defendants Classmates Online, Inc., Classmates
15 Media Corporation and United Online, Inc. aided and abetted one another in negligently
16 and carelessly representing that the individuals, members, and/or users who were
17 purportedly making attempts to contact Plaintiff and the Class through
18 www.classmates.com were former classmates of Plaintiff and the Class. These Defendants
19 knew that the individuals, members, and/or users who were making attempts to contact
20 Plaintiff and the Class were not former classmates of Plaintiff and the Class when they
21 approved, authorized, permitted, condoned, controlled, endorsed and/or made false
22 representations regarding the attempted contacts. All of these Defendants should have
23 known the misrepresentations were material and substantially assisted in the
24 misrepresentations.

THIRD CAUSE OF ACTION

NEGLIGENCE

(vs. DOES 1-50 Directors, Officers, Managers, Advisory Staff, Managerial Employees and/or Agents)

47. Plaintiffs reallege the preceding paragraphs as if fully set forth herein and, to the extent necessary, pleads this cause of action in the alternative.

48. Upon information and belief, Plaintiff and the Class allege that they were harmed because Does 1-50, negligently failed to disclose certain information pertaining to the individuals, members, and/or users who were making attempts to contact Plaintiff and the Class.

49. Upon information and belief, Plaintiff and the Class allege that Does 1-50 were Directors, Officers, Management, Advisory Staff, Managerial Employees and/or agents of the Defendants Classmates Online, Inc., Classmates Media Corporation and United Online, Inc. which marketed, promoted, advertised, and sold the Gold Membership to Plaintiff and the Class. That Does 1-50 negligently failed to disclose material information pertaining to the individuals, members, and/or users who were making attempts to contact Plaintiff and the Class, known only to Does 1-50 and that Plaintiffs could not have discovered. Plaintiffs did not know of the material information pertaining to the individuals, members, and/or users who were making attempts to contact Plaintiff and the Class.

50. Upon information and belief, Plaintiff and the Class allege that Does 1-50 negligently caused harm to the Plaintiff and the Class by failing to disclose the material information pertaining to the individuals, members, and/or users who were making attempts to contact Plaintiff and the Class. The nondisclosure by Does 1-50 was a substantial factor in causing Plaintiff's harm. Plaintiff reasonably relied on Does 1-50's nondisclosure pertaining to the individuals, members, and/or users who were making attempts to contact Plaintiff and the Class.

1 51. Plaintiff and the Class were harmed when they purchased the Gold
2 Membership under false pretenses.

3 **FOURTH CAUSE OF ACTION**

4 **FRAUDULENT CONCEALMENT**

5 (vs. Classmates Online, Inc., Classmates Media Corporation, and United
6 Online, Inc.)

7 52. Plaintiff and the Class reallege the preceding paragraphs as if fully set forth
8 herein and, to the extent necessary, plead this cause of action in the alternative.

9 53. Plaintiff claims that the Defendants Classmates Online, Inc., Classmates
10 Media Corporation and United Online, Inc. knew at all times that the individuals, members,
11 and/or users who were making attempts to contact Plaintiff and the Class were not former
12 classmates of Plaintiff and the Class when they approved, authorized, permitted, condoned,
13 controlled, endorsed and/or made false representations regarding the attempted contacts.
14 Defendants Classmates Online, Inc., Classmates Media Corporation and United Online,
15 Inc. actively concealed and/or intentionally failed to disclose this important information,
16 which was known only to the Defendants Classmates Online, Inc., Classmates Media
17 Corporation and United Online, Inc. Moreover, Plaintiffs could not have discovered in the
18 marketing, promotional, advertising, sales, publicity, disclosure, contractual and other
19 informational materials, and communications that the Defendants Classmates Online, Inc.,
20 Classmates Media Corporation and United Online, Inc. prepared, generated, distributed,
21 approved, endorsed, displayed and/or authorized.

22 54. The Defendants Classmates Online, Inc., Classmates Media Corporation and
23 United Online, Inc., intended to deceive, and did deceive Plaintiff and the Class by
24 concealing and failing to disclose the fact that the individuals, members, and/or users who
25 were making attempts to contact Plaintiff and the Class were not former classmates of
26 Plaintiff and the Class.

27 55. Plaintiff and the Class reasonably believed the individuals, members, and/or
28

1 users who were making attempts to contact Plaintiff and the Class, since the true facts were
 2 withheld from them, and this reasonable belief caused them to purchase the Gold
 3 Membership.

4 56. Plaintiff and the Class were harmed when they were induced into purchasing
 5 the Gold Membership under false pretenses.

6 57. The concealment of, and the failure to disclose, the individuals, members,
 7 and/or users who were making attempts to contact Plaintiff and the Class was a substantial
 8 factor in causing harm to Plaintiff and the Class.

9 58. Plaintiff and the Class claim that Classmates Online, Inc., Classmates Media
 10 Corporation and United Online, Inc. aided and abetted one another in concealing and failing
 11 to disclose the true identity of the individuals, members, and/or users who were making
 12 attempts to contact Plaintiff and the Class:

13 59. Classmates Online, Inc., Classmates Media Corporation and United Online,
 14 Inc. were motivated by their financial interests in continuously and systematically
 15 misrepresenting to Plaintiff and the Class, the true identity of the individuals, members,
 16 and/or users who were making attempts to contact Plaintiff and the Class, such as to
 17 constitute oppression, fraud, or malice under *California Civil Code*, section 3294, entitling
 18 Plaintiff and the Class to punitive damages in an amount appropriate to punish or set an
 19 example of Classmates Online, Inc., Classmates Media Corporation and United Online,
 20 Inc..

21 **FIFTH CAUSE OF ACTION**

22 **VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE**

23 **SECTIONS 17200 ET SEQ**

24 **(vs. Classmates Online, Inc., Classmates Media Corporation, and United**
 25 **Online, Inc.)**

26 60. The Plaintiffs reallege the preceding paragraphs as if fully set forth herein
 27 and, to the extent necessary, pleads this cause of action in the alternative.

1 61. The Plaintiff has standing to pursue this claim as the Plaintiff has suffered
2 injury in fact and has lost money or property as a result of the actions of the Defendants
3 Classmates Online, Inc., Classmates Media Corporation and United Online, Inc. as
4 delineated herein.

5 62. This cause of action is brought on behalf of the Plaintiff and the Class in
6 accordance with the provisions of California Business & Professions Code section 17200.
7 The Plaintiff and the Class have lost money or property as a result of the actions of the
8 Defendants Classmates Online, Inc., Classmates Media Corporation and United Online,
9 Inc. as delineated herein.

10 63. The Defendants Classmates Online, Inc., Classmates Media Corporation and
11 United Online, Inc.'s actions as alleged in this complaint constitute an unfair or deceptive
12 practice within the meaning of California Business and Professions Code section 17200 in
13 that the Defendants Classmates Online, Inc., Classmates Media Corporation and United
14 Online, Inc.'s actions were unfair, unlawful and/or fraudulent and because the Defendants
15 Classmates Online, Inc., Classmates Media Corporation and United Online, Inc. have made
16 unfair, deceptive, untrue or misleading statements in inbox messages, email messages,
17 profile visits, guestbook signatures and other informational materials within the meaning of
18 California Business and Professions Code sections 17200, et seq.

19 64. Classmates Online, Inc., Classmates Media Corporation and United Online,
20 Inc.'s marketing and sales practices associated with the website www.classmates.com, are
21 unfair because they offend established public policy and/or are immoral, unethical,
22 oppressive, unscrupulous, misleading and/or substantially injurious to consumers in that
23 consumers were not informed that the individuals, users and/or members purportedly
24 attempting to contact them were not in fact former classmates.

25 65. The Plaintiffs claim that Classmates Online, Inc., Classmates Media
26 Corporation and United Online, Inc. aided and abetted one another in unfair or deceptive
27 practice within the meaning of California Business and Professions Code section 17200 in
28

1 that Classmates Online, Inc., Classmates Media Corporation and United Online, Inc.'s
 2 actions were unfair, unlawful and/or fraudulent because Classmates Online, Inc.,
 3 Classmates Media Corporation and United Online, Inc. have made unfair, deceptive, untrue
 4 or misleading statements in the inbox messages, email messages, profile visits, guestbook
 5 signatures and other informational materials, within the meaning of California Business and
 6 Professions Code sections 17200, et seq.

7
 8 **SIXTH CAUSE OF ACTION**

9 **VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE**

10 **SECTIONS 17500 ET SEQ**

11 **(vs. Classmates Online, Inc., Classmates Media Corporation, and United**
 12 **Online, Inc.)**

13 66. The Plaintiff and the Class reallege the preceding paragraphs as if fully set
 14 forth herein and, to the extent necessary, pleads this cause of action in the alternative.

15 67. The Plaintiff and the Class have standing to pursue this claim as the Plaintiff
 16 and the Class have suffered injury in fact and have lost money or property as a result of the
 17 actions of Classmates Online, Inc., Classmates Media Corporation and United Online, Inc.
 18 as delineated herein.

19 68. This cause of action is brought on behalf of the Plaintiff and the Class in
 20 accordance with the provisions of California Business & Professions Code section 17200.
 21 The Plaintiff and the Class have lost money or property as a result of the actions of the
 22 Classmates Online, Inc., Classmates Media Corporation and United Online, Inc. as
 23 delineated herein.

24 69. Classmates Online, Inc., Classmates Media Corporation and United Online,
 25 Inc.'s marketing and sales practices associated with the website www.classmates.com, as
 26 alleged herein, are unlawful because the conduct constitutes false marketing and
 27 advertising, as well as the other causes of action herein alleged.

70. Classmates Online, Inc., Classmates Media Corporation and United Online, Inc.'s marketing and sales practices associated with the website www.classmates.com are fraudulent because they are likely to deceive consumers into believing that the individuals, members, and/or users who are making attempts to contact Plaintiff and the Class are in fact former classmates. Plaintiff and the Class also seek an order requiring Classmates Online, Inc., Classmates Media Corporation and United Online, Inc. to make full restitution of all moneys they wrongfully obtained from Plaintiff and the Class.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff request that the Court enter an order and judgment against the Defendants as follows:

1. Allowing this action to be brought as a class action;
2. Adjudge and decree that Defendants, and each of them, have engaged in the conduct alleged herein;
3. Awarding Plaintiff and the Class damages for Classmates Online, Inc., Classmates Media Corporation and United Online, Inc.'s Intentional Misrepresentation;
4. Awarding Plaintiff and the Class damages for Classmates Online, Inc., Classmates Media Corporation and United Online, Inc.'s Negligent Misrepresentation;
5. Awarding Plaintiff and the Class damages for the Classmates Online, Inc., Classmates Media Corporation and United Online, Inc.'s Negligence.
6. Awarding Plaintiff and the Class general damages.
7. Awarding Plaintiff and the Class special damages.
8. Awarding Plaintiff and the Class punitive damages.

1 9. Awarding Plaintiff and the Class injunctive relief for Classmates Online,
2 Inc., Classmates Media Corporation and United Online, Inc.'s violation of the
3 Business & Professions Code sections 17200;

4 10. Awarding Plaintiff and the Class restitution for Classmates Online, Inc.,
5 Classmates Media Corporation and United Online, Inc.'s violation of the Business
6 & Professions Code sections 17200 and 17500;

7 11. Awarding Plaintiff and the Class pre- and post-judgment interest as allowed
8 by law;

9 12. Awarding costs and expenses.

10 13. Awarding Attorneys Fees.

11 14. Plaintiff and the Class hereby demand a Jury Trial

12 15. Granting such other and further relief that this Court may deem just and
13 proper

14 Dated: October 29, 2008

KABATECK BROWN KEELNER LLP

17 By: 

BRIAN S. KABATECK
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury in the instant action.

Dated: October 29, 2008.

KABATECK, BROWN KELLNER LLP

By: 

BRIAN S. KABATECK
Attorneys for Plaintiff

BRIAN S. KABATECK, SBN 152054 (bsk@kbklawyers.com)
RICHARD L. KELLNER, SBN 171416 (rlk@kbklawyers.com)
JOSHUA H. HAFFNER, SBN 188652 (jhh@kbklawyers.com)
KABATECK BROWN KELLNER LLP
644 S. Figueroa Street
Los Angeles, California 90071
Telephone: (213) 217-5000
Facsimile: (213) 217-5010

Attorneys for Plaintiffs

FILED
LOS ANGELES SUPERIOR COURT

NOV 20 2008

JOHN A. CLARKE, CLERK
BY R. SANCHEZ, DEPUTY

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

ANTHONY MICHAELS, individually and
on behalf of all others similarly situated,

Plaintiff,

vs.

CLASSMATES ONLINE, INC.;
CLASSMATES MEDIA CORPORATION;
UNITED ONLINE, INC.; a California
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. BC 401048

NOTICE OF COURT RULING DATED
NOVEMBER 13, 2008

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on November 13, 2008 the Court entered the Order
attached hereto as Exhibit 1.

Dated: November 18, 2008

KABATECK BROWN & KELLNER, LLP

By:


JOSHUA H. HAFFNER
Attorneys for Plaintiffs CLASSMATES
MEDIA CORPORATION, INC.

NOTICE OF COURT RULING DATED NOVEMBER 13, 2008

EXHIBIT
PAGE

3
31

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/13/08

DEPT. 324

HONORABLE VICTORIA CHANEY

JUDGE

L. HIRONAKA

DEPUTY CLERK

HONORABLE
#5-EXP

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C. GIPSON, C.A.

Deputy Sheriff

NONE

Reporter

4:30 pm

BC401048

Plaintiff

Counsel

ANTHONY MICHAELS

** NO APPEARANCE **

VS

Defendant

CLASSMATES ONLINE INC ET AL

Counsel

Designated Complex 11/13/08

NATURE OF PROCEEDINGS:

COURT ORDER

This Court makes its determination whether or not this case should be deemed complex pursuant to Rule 3.400 of the California Rules of Court.

This case is designated complex and is reassigned to Judge WILLIAM F. HIGHBERGER, in Department CCW-307, at Central Civil West Courthouse for all further proceedings.

Notice of Initial Status Conference is to be given by the Clerk in Department CCW-307. Until the order setting the Initial Status Conference is issued, no responsive pleadings may be filed and all discovery is stayed. Parties may file a Notice of Appearance in lieu of an answer or responsive pleading. Nothing herein stays the time for filing an affidavit of prejudice pursuant to Code of Civil Procedure section 170.6.

Pursuant to Government Code section 70616(c), each party is ordered to pay \$550.00 for complex fees, payable to Los Angeles Superior Court, within ten (10) calendar days of service of this minute order.

Plaintiff is ordered to serve a copy of this minute order on all parties forthwith and file a proof of service in the assigned department within seven (7) days of service.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/13/08

DEPT. 324

HONORABLE VICTORIA CHANEY

JUDGE

L. HIRONAKA

DEPUTY CLERK

HONORABLE
#5-EXP

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C. GIPSON, C.A.

Deputy Sheriff

NONE

Reporter

4:30 pm

BC401048

Plaintiff

Counsel

ANTHONY MICHAELS

** NO APPEARANCE **

VS

Defendant

CLASSMATES ONLINE INC ET AL

Counsel

Designated Complex 11/13/08

NATURE OF PROCEEDINGS:

Any party objecting to the complex designation must file an objection and proof of service in Department CCW-324 within seven (7) days of service of the objection. This Court will make its ruling on the submitted pleadings.

CLERK'S CERTIFICATE OF MAILING/
NOTICE OF ENTRY OF ORDER

I, the below named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served Notice of Entry of the above minute order of 11/13/2008 upon each party or counsel named below by depositing in the United States mail at the courthouse in Los Angeles, California, one copy of the original entered herein in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

Date: November 13, 2008

John A. Clarke, Executive Officer/Clerk

By:

L. Hironaka, Deputy Clerk for Department CCW-324

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/13/08

DEPT. 324

HONORABLE VICTORIA CHANEY

JUDGE L. HIRONAKA

DEPUTY CLERK

HONORABLE
#5-EXP

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C. GIPSON, C.A.

Deputy Sheriff

NONE

Reporter

4:30 pm

EC401048

Plaintiff

Counsel

ANTHONY MICHAELS

** NO APPEARANCE **

VS

Defendant

CLASSMATES ONLINE INC ET AL

Counsel

Designated Complex 11/13/08

NATURE OF PROCEEDINGS:

Brian S. Kabateck, Esq.,
 Richard L. Kellner, Esq.,
 KABATECK BRWON KELLNER, LLP
 664 So. Figueroa Street
 Los Angeles, CA 90017

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 644 So. Figueroa Street, Los Angeles, California 90017..

On November 19, 2008, I served the foregoing document described as: NOTICE OF COURT RULING DATED NOVEMBER 13, 2008 on the interested parties in this action:

SEE ATTACHED SERVICE LIST

☐ (BY PERSONAL SERVICE) I personally caused such document to be personally delivered by hand to the offices of the addressee(s).

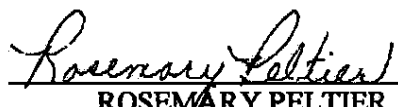
☒ VIA U.S. MAIL - I deposited such envelope(s) with the United States Postal Service, enclosed in a sealed envelope, for collection and mailing with the United States Postal Service where it would be deposited for first class delivery, postage fully prepared, in the United States Postal Service that same day in the ordinary course of business. I am readily familiar with my employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service.

☐ VIA FACSIMILE TRANSMISSION - by use of facsimile machine, I served a copy of the document(s) on interested parties by transmitting by facsimile machine to said interested party. The facsimile machine I used complied with California Rules of Court, rule 2002, and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration FAX No. (213) 217-5010 to the FAX number(s) listed next to such interested party. The facsimile machine I used complied with Rule 2003(3) and no error was reported by the machine.

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 19, 2008, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.


ROSEMARY PELTIER

SERVICE LIST

Classmates Online, Inc.
21301 Burbank Boulevard
Woodland Hills, CA
Attention: Karina Perez – Person Authorized to Accept Service of Process on Behalf of
Classmates Online

Classmates Media Corporation
21301 Burbank Boulevard
Woodland Hills, CA
Attention: Karina Perez – Person Authorized to Accept Service of Process on Behalf of
Classmates Media Corporation

United Online, Inc.
21301 Burbank Boulevard
Woodland Hills, CA
Attention: Karina Perez – Person Authorized to Accept Service of Process on Behalf of United
Online Inc.

Kabateck & Garris
644 South Figueroa Street
Los Angeles, California 90017
(213) 217-5000
FAX (213) 217-5010

EXHIBIT C

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) Brian S. Kabateck, (SBN 152054) / Richard L. Kellner, (SBN 171416) KABATECK BROWN KELLNER LLP 644 S. FIGUEROA ST. LOS ANGELES CA, 90017 TELEPHONE NO.: (213) 217-5000 FAX NO. (Optional): (213) 217-5010 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): PLAINTIFF		FILED LOS ANGELES SUPERIOR COURT NOV 20 2008 JOHN A. CLARKE, CLERK BY R. SANCHEZ, DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: 111 North Hill Street CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District		
PLAINTIFF/PETITIONER: ANTHONY MICHAELS, ETC. DEFENDANT/RESPONDENT: CLASSMATES ONLINE INC. ET AL.		CASE NUMBER: BC 401048
PROOF OF SERVICE OF SUMMONS		Ret. No. or File No.: 10846.jxa D324

(Separate proof of service is required for each party served.)

- At the time of service I was at least 18 years of age and not a party to this action.
- I served copies of:
 - ☒ Summons
 - ☒ Complaint
 - ☒ Alternative Dispute Resolution (ADR) package
 - ☒ Civil Case Cover Sheet (served in complex cases only)
 - ☐ Cross-Complaint
 - ☒ Other (specify documents): PLEASE SEE ATTACHMENT FOR ADDITIONAL DOCUMENTS
- Party-served (specify name of party as shown on documents served):
 CLASSMATES MEDIA CORPORATION
 - ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
 MARK R. GOLDSTON, PRESIDENT OF CLASS MATES MEDIA CORPORATION
- Address where the party was served:
 21301 BURBANK BLVD. WOODLAND HILLS CA, 91367
- I served the party (check proper box)
 - ☐ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): (2) at (time):
 - ☒ by substituted service. On (date): 11/07/08 at (time): 5:14PM I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 - ☒ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - ☒ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): 11/07/08 from (city): LOS ANGELES or ☐ a declaration of mailing is attached.
 - ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

ANTHONY MICHAELS, ETC.

vs.

CLASSMATES ONLINE INC. ET AL.

BC 401048

"ADDITIONAL DOCUMENTS SERVED"

- CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
- NOTICE OF CASE ASSIGNMENT – UNLIMITED CIVIL CASE

KABBR10846jxa

PLAINTIFF/PETITIONER: ANTHONY MICHAELS, ETC.	CASE NUMBER.
DEFENDANT/RESPONDENT: CLASSMATES ONLINE INC. ET AL.	BC 401048

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgment of Receipt.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ by other means (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): CLASSMATES MEDIA CORPORATION
under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: MICHAEL LEE SMITH
- b. Address: P.O. Box 861057, Los Angeles, California 90086-1057
- c. Telephone number: (800) 994-5454
- d. The fee for service was: \$
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ registered California process server:
- (i) ☐ owner ☐ employee ☒ independent contractor.
- (ii) Registration No.: 5159
- (iii) County: LOS ANGELES

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: November 14, 2008

MICHAEL LEE SMITH

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)